

DRAFT

BARBERING AND COSMETOLOGY EXAMINING BOARD MINUTES October 6, 2003

PRESENT: Barbara Flaherty, Laura Jenkins, Leon Lauer, Lee Martinez (arrived at 9:36), Denise Svetly, Bruce Bennett, Janice Boeck, Marie Blake, non-voting member

EXCUSED:

STAFF PRESENT: Jerry Lowrie, Bureau Director, John Schweitzer, Legal Counsel, Pat Schenck, Program Assistant, Judy Mender, Jan Bobholz Credentialing, Barbara Showers, Darwin Tichenor, Exam Center and Division of Enforcement Staff.

GUESTS: Alex DeLeon, Bureau of Apprenticeships, Kristin Sullivan, Cost Cutters, Tami Barikmo, Cost Cutters, Mary Lou Richter, Cost Cutters, Julie Brar, Cost Cutters, Audrey Sann, NCA, Germaine Briggs, Nails by Germaine, Beverly Scheffler, NCA, Mary Kiley, NCAW, Ken Moore, DWD/BAS, Mary Pierce DWD/Bureau of Apprenticeship Standards, Students from SW Tech Col, Fennimore and Students from Wausau Tech School.

CALL TO ORDER

Leon Lauer, Chair, called the meeting to order at 9:32 a.m. A quorum of 6 members was present. At 9:36 a.m. 7 members were present.

AGENDA

MOTION: Laura Jenkins moved, seconded by Bruce Bennett, to approve the agenda as written. Motion carried unanimously.

MINUTES OF AUGUST 4, 2003

MOTION: Bruce Bennett moved, seconded by Denise Svetly, to approve the minutes of August 4, 2003 as written. Motion carried unanimously.

ADMINISTRATIVE REPORT
JERRY LOWRIE, BUREAU DIRECTOR

Jerry Lowrie, Bureau Director of Business and Design introduced himself to the Board and gave a summary on his background and experience in state government and the private sector.

Mr. Lowrie introduced new Board members Janie Boeck and Marie Blake. Introductions were made around the table with each Board member giving a summary on their background and interest.

Mr. Lowrie acknowledged the visitors and thanked them for their interest in attending the Board meeting.

BOARD ROSTER

Add Marie Blake and Janice Boeck's appointment information to Board Roster.

2003 MEETING DATES

The next Board meeting is scheduled for December 1, 2003.

2004 MEETING DATES

The Board reviewed the meeting dates for 2004.

TO-DO-LIST

Noted.

**SUMMARY OF REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES AND PRESS RELEASES**

The new Barbering and Cosmetology rules are effective October 1, 2003.

DEPARTMENTS TRAVEL POLICY

Information only.

CURRICULUM COMMITTEE

Setting the scope and goals of the Curriculum Committee was discussed. Issues discussed were to improve the curriculum, clipper and tapered hair cuts, meet only on the odd month and that there should be a maximum of 4-5 members on the Curriculum Committee.

TRAVEL
BARBARA FLAHERTY, VICE CHAIRPERSON
REPORT ON NATIONAL-INTERSTATE COUNCIL (NIC) OF STATE BOARDS OF
COSMETOLOGY, AUGUST 23-25, 2003 AT SACRAMENTO, CA

Barbara Flaherty reported on the National-Interstate Council (NIC) of State Boards of Cosmetology meeting she attended in Sacramento, CA. on August 23-25, 2003. The focus of the conference was to provide a forum for the membership to discuss current issues and share ideas, problems and experiences in matters effecting the regulation of cosmetology nationwide.

Educational program included such topics as the State of Regulation, Model Code of Ethics, National Endorsement and the Importance of Listening. Regulatory matters were addressed in breakout sessions on such topics as expanding skin care services, regulatory structures and enforcement. The conference concluded with the installation of officers for the upcoming year.

The Board requested that the Department look at alternate testing companies. The Board would prefer to have National Interstate Council (NIC) as the testing company over Promissor. Inc.

The next National Interstate Council Meeting (NIC) will be held in Richmond, VA on August 28-30, 2004.

ALTERNATING BETWEEN NATIONAL ASSOCIATION OF BARBER BOARDS OF
AMERICA AND NIC CONFERENCE NEXT YEAR.

The Board discussed the importance of keeping involved in the National Association of Barber Boards of America and National Interstate Council issues.

NATIONAL COALITION OF ESTHETIC & RELATED ASSOCIATIONS ANNUAL NCEA
MEETING, JANUARY 18-19, 2004, ORLANDO, FL.

Bruce Bennett will be in Florida on January 18-19, 2004 for other business. He will attend the National Coalition of Esthetic & Related Associations Annual (NCEA) Meeting on January 18-19 in Orlando, FL. but not as a representative of the Wisconsin Barbering and Cosmetology Board. Mr. Bennett will report back to the Board at the April 5, 2004 Board meeting.

ADMINISTRATIVE RULES
CLEARLY DEFINE "SUPERVISION" BC 2

No discussion required.

DRAFT LANGUAGE BC 6.04(1)(B) FROM 4,000 OF PRACTICE UNDER SUPERVISION TO 2,000 HOURS.

John Schweitzer will draft new BC language when the October 1, 2003 BC rule changes are available in print. Mr. Schweitzer will recommend the change to 2,000 hours and look at the other BC rules for changes.

CR 02-058 EFFECTIVE DATE – JOHN SCHWEITZER

BC 1-10 rules are effective on October 1, 2003.

LEGISLATION

DRAFT LANGUAGE 454.01 – BOARD AUTHORITY REGARDING WAXING.

Tabled until the December 1, 2003 Board meeting.

EXAMINATION AND EDUCATION

CONTINENTAL TESTING – QUALIFICATIONS OF EXAMINERS – DARWIN TICHENOR

The Board requested that Darwin Tichenor gather information on the qualifications of examiners conducting examinations. Mr. Tichenor contacted Continental testing and reported that 41 proctors out of 56 are currently practicing examiners and all are currently licensed. 15 are no longer practicing. The Board indicated that they would like licensed examiners that are currently practicing to proctor exams.

Darwin will re-contact Continental Testing to check on the 15 non-practicing examiners and report back to the Board at the December 1, 2003 Board meeting.

**MANICURIST EXAM SCORES AND TRANSLATOR ISSUES
DARWIN TICHENOR/BARB SHOWERS**

Barbara Showers reported on the missing examination booklet incident. The Booklet was returned but because of the irregularities the scores of twelve candidates were withheld pending an investigation. The Office of Exams reviewed the scores of the twelve candidates who had a translator at the exam site.

The Office of Examinations found an unusual similarity in total scores for the candidates. The similarity of the individual responses for nine candidates were substantial enough to imply that translators were supplying answers to candidates, or that some candidates had common knowledge of the examination.

There was no evidence of cheating on three of the candidates exams and it was recommended that the Board pass these candidates.

Allowing the candidates the option to re-test with Department approved translators was discussed. If the nine candidates retake the examination under a controlled situation the Board would accept the score if passed.

MOTION: Laura Jenkins moved, seconded by Lee Martinez, to accept the scores of three candidates. Motion carried unanimously.

MOTION: Marvile Martin moved, seconded by Lee Martinez, to not accept the exam scores of the nine candidates until after the investigation is completed but will offer them the opportunity to retake the exam written in the candidates native language or with a translator approved by this department and will schedule a special exam for them. Motion carried unanimously.

Dr. Showers reported that the Office of Exams is looking at different sources for translators. The Department is looking for neutral translators that are not colleagues or friends of the candidate.

John Schweitzer reported that the responsibility of exams at the exam centers belongs to Continental Testing Services. Continental testing maintains the responsibility for security under contract with Wisconsin.

CREDENTIALING SURVEY UPDATE -BARBERING SKILLS TAUGHT OR NOT TAUGHT IN SCHOOLS JUDY MENDER

Judy Mender reported that she sent letters to all Barbering and Cosmetology schools and Technical Colleges regarding barbering skills taught or not taught in schools. Ms. Mender received some responses from the schools, but the schools did not provide a breakdown on actual hours taught for each course.

PRACTICE ISSUES REQUEST FOR EXTENSION FOR MANAGER OF RECORD

MOTION: Lee Martinez moved, seconded by Denise Svetly, to grant an extension until November 1, 2003 to Maria L. Veloz-Marin to find another manager or that her co-worker re-takes and passes the manager examination. Laura Jenkins voted no, Barb Flaherty voted no. Motion carried.

LETTER OF VIOLATION TO PRESIDENT BUSH

The Board reviewed and discussed a letter sent to President Bush regarding practicing hairdressing in the State of Wisconsin without a license.

The Board discussed BC 3.02 (1)(b) whether or not a manager of a chain salon must be on-site or whether they can manage a salon over the telephone. Interpretation of requiring a full-time manager

to be on the premises for at least 30 hours a week was discussed and questioned. On-site managers in chain salons will be discussed further and clarified at the December 1, 2003 Board meeting.

RECOMMENDATION FOR A CHANGE TO BC 4.07(2) LETTER FROM FRED SAFFORD

Information item only.

DIVISION OF ENFORCEMENT FORFEITURE GRID – CANDY BLOEDOW

The Board reviewed the Departments “Forfeiture Grid” to see whether any changes should be made. Ms. Bloedow reported that the last change to the grid was made in August of 2000.

The “Forfeiture Grid” will be discussed further, along with comments from Ms. Bloedow, at the next Board meeting on December 1, 2003.

ANONYMOUS COMPLAINTS – DISCUSS REQUIREMENT OF SIGNING COMPLAINT FORMS TO MAKE IT LEGAL.

The Board discussed whether or not the Department should accept complaints sent to the Department without a signature. Mr. Schweitzer indicated that some complaints are worth investigating even though they are not signed.

To comply with the open records law, complaints coming into the office with signatures, cannot be kept confidential.

When Board members are screening cases they can use their own discretion on the validity of the complaint when they are not signed. Some anonymous complaints are valid and should be opened for investigation.

LEGAL COUNSEL REVIEW E-MAIL AND WRITTEN CORRESPONDENCE– JOHN SCHWEITZER

Mr. Schweitzer received a call regarding macrolysis. There will be occasional questions regarding this new technique.

Macrolysis, new from Europe, is a new system of non-invasive permanent hair removal. A gentle current is emitted through three separate bioactive gel formulas containing synthetic anti-androgen, mild acids and semi-caustic electrolytes. The electric current carries the bio-active formulation down to the dermal papilla (from which the hair grows.) This causes a reaction that substantially traumatizes, slows, weakens and dissolves the hair. Any area of the face or body can be treated and results can begin after 2-3 treatments. The first phase of the microlysis treatment uses a concentrated salicylic acid formulation suspended in a conductive gel compound. These products can be ordered over the internet.

The Board should look at new techniques or procedures being performed in case they need to make any rule changes.

NEW BUSINESS

Bruce Bennett distributed booklets he received on “Learning the Art of Doing Business”, a Federal Taxation Curriculum for Cosmetology students and an Instructors guide for the curriculum from the American Association of Cosmetology Schools (AACS) in partnership with the Internal Revenue Service. Mr. Bennett also distributed some Instructors Guides and Student Handbooks. This is a very comprehensive guide on how income taxes relate to the profession of Barbering and Cosmetology. Mr. Bennett will be implementing this new course as part of his curriculum.

Mr. Bennett would like this added to the agenda on December 1, 2003 for further discussion and review.

BOARD MEMBER ACTIVITY CONTINUING EDUCATION COMMITTEE

Bruce Bennett reported on the Continuing Education Committee meeting. The Committee reviewed the proposed curriculum proposed by Karen Kraus and the Committee suggested that the continuing education hours should be lowered to six hours, verses eight hours because most programs offer only six hours for one course. The Committee would like to work on defining safety and sanitation for the six hour requirement.

The Committee requested reviewing courses every two years in order to have some flexibility.

Barbara Flaherty reported that the State of Kentucky and South Carolina have a strong continuing education system in place. These states utilize the UW system to provide courses for continuing education. Ms. Flaherty indicated that the Wisconsin Board should look at these states as examples for continuing education courses in Wisconsin.

MOTION: Denise Svetly moved, seconded by Marvile Martin, that Janice Boeck replaces Karen Kraus on the Continuing Education Committee. Motion carried unanimously.

MISCELLANEOUS CORRESPONDENCE AND INFORMATION CHI TRANSFORMATION SYSTEM – LETTER FROM PHYLLIS BROOKS

The Department received a letter from Phyllis Brooks describing a bad experience she had with the Chi Transformation System. The incident did not happen in Wisconsin, so no action is required from the Board.

The CHI Transformation System is an advanced American technology utilizing key elements to transform the hair. This scientific approach permanently transforms hair from frizzy, curly, wavy or

even coarse straight hair into silky beautiful controlled straighter hair by using the CHI iron (ceramic), natural organic silk, and negative ions without the use of any harsh chemicals or ammonia.

CLOSED SESSION

MOTION: Barbara Flaherty moved, seconded by Denise Svetly, to convene to Closed Session to deliberate on cases involving hearings (s. 19.85 (11) (a), Stats.); to consider licensure or discipline (s. 19.85(1) (b), Stats. to consider individual histories or disciplinary data (s. 19.85(1) (f), Stats.); and to confer with legal counsel (s. 19.85(1) (g), Stats.). Motion carried by roll call vote: Barbara Flaherty-yes, Laura Jenkins-yes, Leon Lauer-yes, Lee Martinez-yes, Denise Svetly-yes, Bruce Bennett-yes, Marvile Martin-yes, Janice Boeck-yes.

Open session recessed at 11:59 a.m.

The Board deliberated on monitoring reports, proposed stipulations, administrative warnings, case closings, examination issues, request for appeal of denials, application review, and reinstatement requests and case status reports.

RECONVENE INTO OPEN SESSION

MOTION: Barbara Flaherty moved, seconded by Marvile Martin, to reconvene into open session at 12:40 a.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

MONITORING

XUAN NGO

In compliance. No action required.

ABSOLUTE PERFECTION BEAUTY CAFÉ & LORRAINE K. PELLIE (MENOMONEE FALLS)

MOTION: Bruce Bennett moved, seconded by Denise Svetly, to suspend Absolute Perfection Beauty Cafe Salon (Menomonee Falls) and Lorraine K. Pellien's license for violation of the Order until further Order of the Board. Motion carried unanimously

CHRISTINA SINKEY

In compliance. No action required.

CURL UP & DYE - CORNELL STALLWORTH (MILWAUKEE)

MOTION: Bruce Bennett moved, seconded by Laura Jenkins, to grant the request for restoration of Cornell Stallworth's license, contingent upon payment of \$173.00 per month. Failure to submit \$173.00 per month will result in suspension of Cornell Stallworth's license. Motion carried unanimously

CASE CLOSINGS

MOTION: Bruce Bennett moved, seconded by Denise Svetly, to close the following cases:
 02 BAC 083 for no violation. Motion carried unanimously.
 01 BAC 017 for prosecutorial discretion (P7).
 01 BAC 017 for no violation.
 02 BAC 002 for insufficient evidence.
 01 BAC 113 for prosecutorial discretion (P2).
 01 BAC 010 for insufficient evidence.
Motion carried unanimously.

PRESENTATION OF PROPOSED STIPULATIONS BY PROSECUTORS OR ANY THAT MAY BE SUBMITTED AFTER PRINTING OF AGENDA

None

STIPULATIONS

MARILYN BROOKS D/B/A/ CHANGING FACES (MILWAUKEE)

MOTION: To adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter concerning Marilyn Brooks d/b/a Changing Faces (Milwaukee). Motion carried unanimously.

MICHELLE'S HAIR AND NAIL SALON, MICHELLE D. SMITH (MILWAUKEE)

MOTION: To adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter concerning Michelle's Hair and Nail Salon, Michelle D. Smith (Milwaukee). Motion carried unanimously.

CREATIVE HAIRDRESSERS, INC. D/B/A HAIR CUTTERY # 3086 (STURTEVANT)

MOTION: To adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter concerning Creative Hairdressers, Inc. d/b/a/ Hair Cuttery # 3086 (Sturtevant). Motion carried unanimously.

YVONNE CORWEIN

MOTION: Denise Svetly moved, seconded by Bruce Bennett, to close the complaint against Yvonne Corwein for prosecutorial Discretion (P1). Motion carried unanimously.

LISA M. MARG (APPLETON)

MOTION: To adopt the Findings of Fact, Conclusions of Law, Order and Stipulation in the matter concerning Lisa M. Marg (Appleton). Motion carried unanimously.

MOTION: Bruce Bennett moved, seconded by Denise Svetly to adopt the Findings of Fact, Conclusions of Law, Order and Stipulation for all stipulations presented in closed session. Motion carried unanimously.

DELIBERATION ON ADMINISTRATIVE WARNINGS OR DISCIPLINARY ACTIONS THAT MAY BE SIGNED AFTER PRINTING OF AGENDA

None.

EXAMINATION ISSUES

None.

REQUEST FOR APPEAL OF DENIAL

None.

APPLICATIONS

JAMES FLIPPIN- REQUEST FOR APPRENTICE PERMIT EXTENSION.

MOTION: Denise Svetly moved, seconded by Janice Boeck, to grant the request of James Flippin for an Apprentice Permit extension to December 31, 2004 to complete his education courses. Motion carried unanimously.

TUNG HUYNH

MOTION: Denise Svetly moved, seconded by Bruce Bennett, to deny Tung Huynh a license by reciprocity based on his discipline in Illinois and his answer on the application. Mr. Huynh must take the State Licensing Examination. Motion carried unanimously.

REINSTATEMENT REQUESTS

CYNTHIA ERICKSON

MOTION: Bruce Bennett moved, seconded by Denise Svetly, to grant Cynthia Erickson's request for re-instatement without re-examination. Motion carried unanimously

ADJOURNMENT

MOTION: Laura Jenkins moved, seconded by Bruce Bennett, to adjourn the meeting at 12:45 p.m. Motion carried unanimously.

NEXT MEETING: DECEMBER 1, 2003

Agenda Items for December 1, 2003:

- Continuing Education Committee Meeting Report
- Alternating between National Association of Barber Boards of America and NIC Conference Next Year
- Draft Language BC 6.04(1)(b) From 4,000 of Practice Under Supervision to 2,000 Hours.
- Draft Language 454.01 – Board Authority regarding waxing.
- Non Practicing Examiners (15) - Continental Testing – Qualifications of Examiners – Darwin Tichenor
- Nine Candidates Exam Scores and Translator Issues – Update – Barb Showers
- Learning the Art of Doing Business – Federal Taxation Curriculum – Bruce Bennett
- On-Site Managers in Chain Salons BC 3.02 (1)(b)
- Forfeiture Grid - Update – Candy Bloedow
- Public Comments